



BOOK REVIEW

Hate, Politics, Law: Critical Perspectives on Combating Hate (2018). Thomas Brudholm & Birgitte Schepelern Johansen, eds. Oxford University Press¹

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This volume comprises the essays, which provide critical perspectives on hate. The habitual usage in public discourse places hate in the context of all that opposes the good and links it to violence. The assumption is that violence is caused by hate and, therefore, if we wish to prevent violence it is our duty to counter hate. In turn, this idea justified the extension of state power by limiting freedom of speech and by letting the state to punish not only for criminal actions but also for views and attitudes behind those actions.

Thus, the authors claim, combating hate has itself become an ambivalent endeavor. This seemingly provocative thesis is, however, thoroughly substantiated by a wealth of historical and conceptual research on how hate was integrated into modern public discourse and legal system. The more attenuated picture emerges from the very beginning when the stages and national variation are described.

Hate's first appearance in law is traced to the International Convention on Elimination of All Forms of Racial Discrimination (1965), which decries "racial superiority or hatred", and to the International Covenant on Civil and Political Rights (1966), which calls to penalize "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence". The international concern with racism across the globe in this period of decolonization, on the one hand, and apartheid, on the other, exerted significant pressure on national legal systems to condemn racial discrimination. In Europe, UK, Germany, and France introduced penalties for "hate speech", "although each of these three

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countries responded to international pressures” to act against anti-Semitism and racism, “domestic differences” also affected the timing and precise wording of their laws” (p. 20).

These differences in national contexts stemmed from respective agendas: the growing numbers of immigrants in the UK and the recurrence of anti-Semitism in Germany and France. In the US, in the aftermath of the civil rights movement, it was hate crimes that draw the attention of the public and legislature rather than hate speech. Unlike Europe, the drive towards making “bias-motivation” an aggravating circumstance in the crime was mostly spearheaded by social activists in the US. As the editors put it hate discourse in the US was “the result of a political strategy by activists as a means to encourage media coverage and public sympathy” (pp. 3–4). Thus, although hate was an umbrella term for a number of different concerns and policies on it varied, hate has become an “organizing principle for understanding” certain kind of evil.

This notion flourishes in public use and was expanded to refer to new groups, which could be the object of hate (religion, gender identity, disability, etc.); new forms of expressing hate (genocide or Holocaust denial, etc.) and new venues to do so (Internet). Nevertheless, “hate is more a public construction than a formal legal term” (p. 33). Subsequent chapters discuss alternative ways of looking at what hate might mean in diverse cultural contexts such as ancient Greece and Rome; how it can be conceptualized on the basis of psychological knowledge; and in which ways art can contribute to mitigating hate through self-scrutiny.

Nevertheless, I would focus on further analysis of legal and political implications of the critical approach to hate. One important point the authors make is that in talking about hatred we might better use other terms such as group defamation and bias crime. Emotional and irrational connotations contained in the concept of hate tend to disguise what is at stake in fighting against hatred and hostility motivated by biased attitudes. With the development of history and sociology of emotions, we learn ever more about the interplay between innermost feelings and social arrangements. Thus, instead of suppressing or punishing individual emotional dispositions we should highlight their basis in “structures of prejudice, illegitimate power hierarchies, and discrimination”. If the public agenda will continue to revolve around hate and measures against it rather than “structural embedding” of hate speech and hate crimes, we are probably fighting a losing battle.

Another reason to be suspicious about reducing discriminatory attitudes and bias-motivated violence to “hate” is, in my view, that punishing hate tips the shaky balance between material crime and “thoughtcrime” more towards the latter. It is clear that notions that refer to the mental state of individuals such as criminal intent or heat of passion exist in law. It is also obvious that hate attitude is surmised on the basis of observable expressions or actions, that is, on the basis of demonstrable evidence. Furthermore, it is not hate *per se*, not the emotion that is punished, but its presence in the deed, its enactment, which constitutes an aggravating offence. Yet, if an individual has the right to love s/he has equal right to hate. As Max Scheler once explained it, hate is just the other side of love: if you love something you necessarily

hate its opposite. Unconditional absolute love is a divine attribute and not human. M. Thorup specifically discusses “democratic hatreds” in his chapter, and shows that even democracies create their own “hateful enemies”. By presenting democracy as our salvation from violence we are thus obliged to oppose all forms of violence and, simply put, to “hate the haters”.

Finally, if hate is irrational it can’t be eradicated by repressive measures. If it is rational and relies on certain moral choice, punishment again is hardly the most effective way to deal with. Perhaps, a broader view that ascribes some positive value to hate, as in N. Yanay’s chapter, who argues that “love and hate are not simply opposites but also nested in each other” (p. 6), or the other means of dealing with hate crimes such as restorative rather than punitive measures, as proposed by M. A. Walters, could help us approach the dangers of hate in society more reasonably.